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_____ BILL

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO JUDICIAL RETIREMENT; PROVIDING THAT CERTAIN AMOUNTS OF THE CIVIL DOCKET AND JURY FEES BE DEPOSITED INTO THE GENERAL FUND; INCREASING CONTRIBUTIONS TO THE JUDICIAL AND MAGISTRATE RETIREMENT FUNDS; PROVIDING THAT CONTRIBUTIONS TO JUDICIAL AND MAGISTRATE RETIREMENT BE PROVIDED FROM THE GENERAL FUND; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 10-12B-3 NMSA 1978 (being Laws 1992, Chapter 111, Section 3, as amended) is amended to read:

"10-12B-3. JUDICIAL RETIREMENT FUND ESTABLISHED-- ADMINISTRATION OF FUND--ACCOUNTING FUNDS.--

A. There is established in the state treasury the "judicial retirement fund". The fund ~~[is comprised]~~ consists of money received from ~~[docket and jury fees of metropolitan~~

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1 ~~courts, district courts, the court of appeals and the supreme~~
2 ~~court]~~ employer and employee contributions and [~~any~~] all income
3 derived from the investment [~~earnings on fees and~~
4 ~~contributions~~] of the fund. The board is the trustee of the
5 fund and shall administer and invest the fund. Investment of
6 the fund shall be conducted pursuant to the provisions of the
7 Public Employees Retirement Act. The provisions of the
8 Judicial Retirement Act shall be administered by the board.
9 The board is authorized to promulgate rules. Expenses related
10 to the investment of the fund and administration of the
11 Judicial Retirement Act shall be paid from the fund.

12 B. For purposes of this section, the accounting
13 funds shall be known as the "member contribution fund",
14 "employer's accumulation fund", "retirement reserve fund" and
15 "income fund". The maintenance of separate accounting funds
16 shall not require the actual segregation of the assets of the
17 fund.

18 C. The accounting funds provided for in this
19 section are trust funds and shall be used only for the purposes
20 provided for in the Judicial Retirement Act.

21 D. The member contribution fund is the accounting
22 fund in which shall be accumulated contributions of members and
23 from which shall be made refunds and transfers of accumulated
24 member contributions as provided in the Judicial Retirement
25 Act. The member's court shall cause member contributions to be

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1 deducted from the salary of the member and shall remit the
2 deducted member contributions to the association in accordance
3 with procedures and schedules established by the association.
4 The association may assess an interest charge and a penalty
5 charge on any late remittance. Each member shall be deemed to
6 consent and agree to the deductions made and provided for in
7 this section. Contributions by members shall be credited to
8 the members' individual accounts in the member contribution
9 fund. A member's accumulated member contributions shall be
10 transferred to the retirement reserve fund when a pension
11 becomes payable.

12 E. The employer's accumulation fund is the
13 accounting fund in which shall be accumulated the contributions
14 paid by the state through the member's court. The state,
15 through the member's court, shall remit its contributions to
16 the association in accordance with procedures and schedules
17 established by the association. The board may assess an
18 interest charge and a penalty charge on any late remittance.

19 F. The retirement reserve fund is the accounting
20 fund from which shall be paid all pensions to retired members
21 and survivor beneficiaries and all residual refunds to refund
22 beneficiaries of retired members and survivor beneficiaries.

23 G. Each year, following receipt of the report of
24 the annual actuarial valuation, the excess, if any, of the
25 reported actuarial present value of pensions being paid and

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1 likely to be paid to retired members and survivor beneficiaries
2 and residual refunds likely to be paid to refund beneficiaries
3 of retired members and survivor beneficiaries over the balance
4 in the retirement reserve fund shall be transferred to the
5 retirement reserve fund from the employer's accumulation fund.

6 H. The income fund is the accounting fund to which
7 shall be credited all interest, dividends, rents and other
8 income from investments of the fund, all gifts and bequests,
9 all unclaimed member contributions and all other money the
10 disposition of which is not specifically provided for in the
11 Judicial Retirement Act. Expenses related to the
12 administration of the Judicial Retirement Act shall be paid for
13 from the income fund.

14 I. The association shall at least annually
15 distribute all or a portion of the balance in the income fund
16 to the member contribution fund, the retirement reserve fund
17 and the employer's accumulation fund. Distribution rates shall
18 be determined by the board and may vary for the respective
19 accounting funds."

20 SECTION 2. Section 10-12B-11 NMSA 1978 (being Laws 1992,
21 Chapter 111, Section 11, as amended) is amended to read:

22 "10-12B-11. EMPLOYER CONTRIBUTIONS.--

23 [A.] The member's court shall contribute [~~fifteen~~]
24 thirty percent of salary to the fund for each member in office.

25 [B. ~~Thirty-eight dollars (\$38.00) from each civil~~

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1 ~~case docket fee paid in the district court, twenty-five dollars~~
2 ~~(\$25.00) from each civil docket fee paid in metropolitan court~~
3 ~~and ten dollars (\$10.00) from each jury fee paid in~~
4 ~~metropolitan court shall be paid by the court clerk to the~~
5 ~~employer's accumulation fund.]"~~

6 SECTION 3. Section 10-12C-3 NMSA 1978 (being Laws 1992,
7 Chapter 118, Section 3, as amended) is amended to read:

8 "10-12C-3. MAGISTRATE RETIREMENT FUND ESTABLISHED--
9 ADMINISTRATION OF FUND--ACCOUNTING FUNDS.--

10 A. There is established in the state treasury the
11 "magistrate retirement fund". The fund [~~is comprised~~] consists
12 of money received from [~~docket fees of magistrate courts~~]
13 employer and member contributions and [~~any~~] all income derived
14 from the investment [~~earnings on fees and contributions~~] of the
15 fund. The board is the trustee of the fund and shall
16 administer and invest the fund. Investment of the fund shall
17 be conducted pursuant to the provisions of the Public Employees
18 Retirement Act. The provisions of the Magistrate Retirement
19 Act shall be administered by the board. The board is
20 authorized to promulgate rules. Expenses related to the
21 investment of the fund and administration of the Magistrate
22 Retirement Act shall be paid from the fund.

23 B. For purposes of this section, the accounting
24 funds shall be known as the "member contribution fund",
25 "employer's accumulation fund", "retirement reserve fund" and

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1 "income fund". The maintenance of separate accounting funds
2 shall not require the actual segregation of the assets of the
3 fund.

4 C. The accounting funds provided for in this
5 section are trust funds and shall be used only for the purposes
6 provided for in the Magistrate Retirement Act.

7 D. The member contribution fund is the accounting
8 fund in which shall be accumulated contributions of members and
9 from which shall be made refunds and transfers of accumulated
10 member contributions as provided in the Magistrate Retirement
11 Act. The member's court shall cause member contributions to be
12 deducted from the salary of the member and shall remit the
13 deducted member contributions to the association in accordance
14 with procedures and schedules established by the association.
15 The association may assess an interest charge and a penalty
16 charge on any late remittance. Each member shall be deemed to
17 consent and agree to the deductions made and provided for in
18 this section. Contributions by members shall be credited to
19 the members' individual accounts in the member contribution
20 fund. A member's accumulated member contributions shall be
21 transferred to the retirement reserve fund when a pension
22 becomes payable.

23 E. The employer's accumulation fund is the
24 accounting fund in which shall be accumulated the contributions
25 paid by the state through the administrative office of the

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1 courts. The state, through the administrative office of the
2 courts, shall remit its contributions to the association in
3 accordance with procedures and schedules established by the
4 association. The board may assess an interest charge and a
5 penalty charge on any late remittance.

6 F. The retirement reserve fund is the accounting
7 fund from which shall be paid all pensions to retired members
8 and survivor beneficiaries and all residual refunds to refund
9 beneficiaries of retired members and survivor beneficiaries.

10 G. Each year, following receipt of the report of
11 the annual actuarial valuation, the excess, if any, of the
12 reported actuarial present value of pensions being paid and
13 likely to be paid to retired members and survivor beneficiaries
14 and residual refunds likely to be paid to refund beneficiaries
15 of retired members and survivor beneficiaries over the balance
16 in the retirement reserve fund shall be transferred to the
17 retirement reserve fund from the employer's accumulation fund.

18 H. The income fund is the accounting fund to which
19 shall be credited all interest, dividends, rents and other
20 income from investments of the fund, all gifts and bequests,
21 all unclaimed member contributions and all other money the
22 disposition of which is not specifically provided for in the
23 Magistrate Retirement Act. Expenses related to the
24 administration of the Magistrate Retirement Act shall be paid
25 for from the income fund.

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1 I. The association shall at least annually
2 distribute all or a portion of the balance in the income fund
3 to the member contribution fund, the retirement reserve fund
4 and the employer's accumulation fund. Distribution rates shall
5 be determined by the board and may vary for the respective
6 accounting funds."

7 SECTION 4. Section 10-12C-11 NMSA 1978 (being Laws 1992,
8 Chapter 118, Section 11, as amended by Laws 2014, Chapter 39,
9 Section 8 and by Laws 2014, Chapter 43, Section 8) is amended
10 to read:

11 "10-12C-11. EMPLOYER CONTRIBUTIONS.--

12 [A.] The state, through the administrative office
13 of the courts, shall contribute to the fund [~~fifteen~~] twenty-
14 two percent of salary for each member in office. [~~except that,~~
15 ~~from July 1, 2014 through June 30, 2015, the state contribution~~
16 ~~rate shall be eleven percent of salary for each member in~~
17 ~~office.~~

18 B. ~~Twenty-five dollars (\$25.00) from each civil~~
19 ~~case docket fee paid in magistrate court and ten dollars~~
20 ~~(\$10.00) from each civil jury fee paid in magistrate court~~
21 ~~shall be paid by the court clerk to the employer's accumulation~~
22 ~~fund.]"~~

23 SECTION 5. Section 35-6-1 NMSA 1978 (being Laws 1968,
24 Chapter 62, Section 92, as amended) is amended to read:

25 "35-6-1. MAGISTRATE COSTS--SCHEDULE--DEFINITION OF
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1 "CONVICTED".--

2 A. Magistrate judges, including metropolitan court
3 judges, shall assess and collect and shall not waive, defer or
4 suspend the following costs:

- 5 docket fee, criminal actions under Section 29-5-1 NMSA
- 6 1978 \$ 1.00;
- 7 docket fee, to be collected prior to docketing any other
- 8 criminal action, except as provided in Subsection B
- 9 of Section 35-6-3 NMSA 1978. 20.00.
- 10 Proceeds from this docket fee shall be transferred
- 11 to the administrative office of the courts for
- 12 deposit in the court facilities fund;
- 13 docket fee, twenty dollars (\$20.00) of which shall be
- 14 deposited in the court automation fund [~~and~~],
- 15 fifteen dollars (\$15.00) of which shall be deposited
- 16 in the civil legal services fund and twenty-five
- 17 dollars (\$25.00) of which shall be deposited in the
- 18 general fund, to be collected prior to docketing any
- 19 civil action, except as provided in Subsection A of
- 20 Section 35-6-3 NMSA 1978 72.00;
- 21 jury fee, to be collected from the party demanding trial
- 22 by jury in any civil action at the time the demand
- 23 is filed or made 25.00;
- 24 copying fee, for making and certifying copies of any
- 25 records in the court, for each page copied by

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1 photographic process 0.50.
2 Proceeds from this copying fee shall be transferred
3 to the administrative office of the courts for
4 deposit in the court facilities fund; and
5 copying fee, for computer-generated or electronically
6 transferred copies, per page 1.00.
7 Proceeds from this copying fee shall be transferred
8 to the administrative office of the courts for
9 deposit in the court automation fund.

10 Except as otherwise specifically provided by law, docket
11 fees shall be paid into the court facilities fund.

12 B. Except as otherwise provided by law, no other
13 costs or fees shall be charged or collected in the magistrate
14 or metropolitan court.

15 C. The magistrate or metropolitan court may grant
16 free process to any party in any civil proceeding or special
17 statutory proceeding upon a proper showing of indigency. The
18 magistrate or metropolitan court may deny free process if it
19 finds that the complaint on its face does not state a cause of
20 action.

21 D. As used in this subsection, "convicted" means
22 the defendant has been found guilty of a criminal charge by the
23 magistrate or metropolitan judge, either after trial, a plea of
24 guilty or a plea of nolo contendere. Magistrate judges,
25 including metropolitan court judges, shall assess and collect

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1 and shall not waive, defer or suspend the following costs:
2 (1) corrections fee, to be collected upon
3 conviction from persons convicted of violating any provision of
4 the Motor Vehicle Code involving the operation of a motor
5 vehicle, convicted of a crime constituting a misdemeanor or a
6 petty misdemeanor or convicted of violating any ordinance that
7 may be enforced by the imposition of a term of imprisonment as
8 follows:

9 in a county with a metropolitan court \$10.00;
10 in a county without a metropolitan court 20.00;

11 (2) court automation fee, to be collected upon
12 conviction from persons convicted of violating any provision of
13 the Motor Vehicle Code involving the operation of a motor
14 vehicle, convicted of a crime constituting a misdemeanor or a
15 petty misdemeanor or convicted of violating any ordinance that
16 may be enforced by the imposition of a term of
17 imprisonment. 10.00;

18 (3) traffic safety fee, to be collected upon
19 conviction from persons convicted of violating any provision of
20 the Motor Vehicle Code involving the operation of a motor
21 vehicle 3.00;

22 (4) judicial education fee, to be collected
23 upon conviction from persons convicted of operating a motor
24 vehicle in violation of the Motor Vehicle Code, convicted of a
25 crime constituting a misdemeanor or a petty misdemeanor or

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1 convicted of violating any ordinance punishable by a term of
2 imprisonment. 3.00;

3 (5) jury and witness fee, to be collected upon
4 conviction from persons convicted of operating a motor vehicle
5 in violation of the Motor Vehicle Code, convicted of a crime
6 constituting a misdemeanor or a petty misdemeanor or convicted
7 of violating any ordinance punishable by a term of
8 imprisonment 5.00;

9 (6) brain injury services fee, to be collected
10 upon conviction from persons convicted of violating any
11 provision of the Motor Vehicle Code involving the operation of
12 a motor vehicle 5.00;

13 and

14 (7) court facilities fee, to be collected upon
15 conviction from persons convicted of violating any provision of
16 the Motor Vehicle Code involving the operation of a motor
17 vehicle, convicted of a crime constituting a misdemeanor or a
18 petty misdemeanor or convicted of violating any ordinance that
19 may be enforced by the imposition of a term of imprisonment as
20 follows:

- 21 in a county with a metropolitan court 24.00;
- 22 in any other county 10.00.

23 E. Metropolitan court judges shall assess and
24 collect and shall not waive, defer or suspend as costs a
25 mediation fee not to exceed five dollars (\$5.00) for the

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1 docketing of small claims and criminal actions specified by
2 metropolitan court rule. Proceeds of the mediation fee shall
3 be deposited into the metropolitan court mediation fund."

4 SECTION 6. APPROPRIATION.--Three million dollars
5 (\$3,000,000) is appropriated from the general fund to the
6 department of finance and administration for expenditure in
7 fiscal year 2021 and subsequent fiscal years for distribution
8 to the supreme court, court of appeals, district courts,
9 Bernalillo county metropolitan court and administrative office
10 of the courts to pay increased employer retirement
11 contributions. Any unexpended or unencumbered balance
12 remaining at the end of a fiscal year shall not revert to the
13 general fund.